

service. For those cases where an address is not releasable, HQ AFMPC/DPMD003 provides mail forwarding service at no additional cost.

(c) The processing of complaints will not be extended to those:

(1) Who have not made a bona fide effort to collect the debt directly from the military member through personal contact, correspondence, or other means.

(2) Whose claims are patently false and misleading, or are in violation of state laws concerning usury and debt collection practices (§818.4).

(3) Whose claims are obviously exorbitant (§818.4).

(d) Some states have enacted laws that prohibit creditors from contacting a debtor's employer with respect to indebtedness or communicating facts concerning indebtedness to any employer unless certain conditions are met. The conditions that must be met to remove this prohibition are generally such things as reduction of a debt to judgment and obtaining written permission of the debtor.

(1) At Air Force installations in states having such laws, the processing of debt complaints will not be extended to those creditors who are not in compliance with the state law. Commanders may advise creditors that this rule has been established because it is the general policy of the Air Force to comply with state law when that law does not infringe upon military interests.

(2) This policy will govern even though the creditor is not licensed to do business in the state where the debtor is located.

(e) Under Pub. L. 95-109, contact by a debt collector with third parties for the purpose of aiding debt collection is prohibited without the prior consent of the debtor, given directly to the debt collector, or without a court order. Creditors are generally exempt from Pub. L. 95-109 when they collect on their own behalf.

(f) Denial of privileges:

(1) If a claimant, having been notified of the requirements of this part, refuses or repeatedly fails to comply with its provisions; or a claimant, regardless of the merits of the claim, clearly has shown that an attempt is being made

to make unreasonable use of the processing privilege, the CBPO Special Actions Unit documents the case, provides comments and recommendations, and submits the documentation through command channels to HQ AFMPC/DPMASC.

(2) Cases involving usurious, fraudulent, misleading, or deceptive business practices are reported to the Armed Forces Disciplinary Control Board according to AFR 125-11 (Armed Forces Disciplinary Control Boards and Off-Installation Military Enforcement Services), as well as HQ AFMPC/DPMASC if it appears that Air Force-wide action is appropriate.

§818.8 General requirements for acceptance of complaints.

Requirements in this section do not apply to claims by Federal, State, or Municipal governments, including foreign, nor to those creditors not otherwise subject to Federal Reserve Board (FRB) Regulation Z (12 CFR part 226, §§226.3, 226.9 (1978)).

(a) *Full disclosure and standards of fairness.* The Truth in Lending Act (Pub. L. 90-321) prescribes the general disclosure requirements that must be met by those offering or extending consumer credit. It also prescribes the specific disclosure requirements for both open-end and installment credit transactions.

(1) In place of government requirements, state regulations apply to credit transactions if the FRB determines that the state regulations impose substantially similar requirements and provide adequate enforcement measures.

(2) Commanders should seek advice from their local staff judge advocate to determine whether federal or state laws and regulations apply.

(b) *Certificates of compliance:* (1) Creditors subject to FRB regulation Z, and assignees claiming thereunder, must provide an executed copy of the Certificate of Compliance with their request for assistance. They must also include a copy of the general and specific disclosures provided the member as required by Pub. L. 90-321.

(2) Creditors not subject to FRB Regulation Z (for example, public utility companies, grocery stores, and so

§ 818.9

forth) must include a certification that their request contains neither interest, finance charges, nor other fees in excess of that permitted by the laws of the state in which the obligation was incurred.

(3) Foreign-owned companies having debt complaints against a member must provide a true copy of the terms of the debt, translated into English, and certification of their subscription to the Standards of Fairness.

(c) *Evidence of prior actions.* Such evidence should include photostatic, file, or other duplicated copies, or documentary proof (for example, chronological account activity listings, notarized personal statements, postal documentation, and so forth) showing that every effort has been made to obtain payment by direct contact with the member.

§ 818.9 Dishonored checks and similar instruments.

Every check, draft, or order for the payment of money drawn on any bank or other depository carries with it the representation of payment in full when presented. If dishonored, checks and similar instruments are considered to be evidence of personal indebtedness until redeemed or the member asserts a valid defense to payment. The procedures in § 818.5 apply, and commanders should counsel members on Air Force policy regarding personal indebtedness. Although redeemed:

(a) Administrative or disciplinary action may be appropriate where criminal conduct is evident. The commander should consult the staff judge advocate to determine whether action under the Uniform Code of Military Justice (UCMJ) or other administrative action is appropriate.

(b) Repeated cases of dishonored checks may serve as the basis for administrative action, to include letters of reprimand, UIF entries, over-stamping identification cards to reflect the denial of check cashing privileges (AFR 30-20, Issue and Control of Identification (ID) Cards), or administrative separation. The commander should consult the staff judge advocate on the appropriateness of administrative action.

32 CFR Ch. VII (7-1-99 Edition)

NOTE: These provisions are not appropriate for dishonored checks issued by a military dependent unless the staff judge advocate determines that the member may be held personally liable based on a review of the circumstances.

§ 818.10 Bankruptcy.

Air Force policy is one of strict neutrality. No adverse action may be taken against a member of the Air Force for either filing a petition or because of a discharge in bankruptcy. Underlying facts may involve mismanagement of personal affairs or dishonorable failure to pay just debts and could form a basis for adverse action against a member of the Air Force, but neither filing a petition (for bankruptcy or for payments out of future earnings) nor a discharge in bankruptcy can, of themselves, be considered "mismanagement" or "dishonorable."

(a) Commanders should consult with the servicing staff judge advocate before considering any administrative or disciplinary action against a member for conduct associated with a bankruptcy petition.

(b) Further, the staff judge advocate should be consulted when providing financial counseling for members considering bankruptcy.

(c) The Air Force recognizes and complies with decrees in bankruptcy cases.

§ 818.11 Involuntary deductions for personal indebtedness.

Federal law (5 U.S.C. 5514 and 37 U.S.C. 1007(c)) authorizes the Air Force Accounting and Finance Center (AFAFC) to satisfy a military member's personal indebtedness to the Air Force and other Department of Defense (DOD) Components, federal agencies, and nonappropriated funds instrumentalities by involuntary salary offset or administrative offset (AFR 170-30, Debt Collecting). In addition, the AFAFC is authorized to garnish the wages of Air Force members to satisfy personal indebtedness for the enforcement of child support and alimony payments under certain conditions (§§ 818.15 and 818.16).